

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CATHERINE CONRAD,

Plaintiff,

v.

DAVID BATZ, SHARON BATZ and
SHANAUBA PRODUCTIONS,

Defendants.

ORDER

13-cv-475-bbc

Judgment was entered in this case on February 24, 2014 granting defendants' motion to dismiss and closing this case. Now plaintiff Catherine Conrad has filed a notice of appeal and a request for leave to proceed on appeal in forma pauperis.

A district court has authority to deny a request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 for one or more of the following reasons: the litigant wishing to take an appeal has not established indigence, the appeal is taken in bad faith or the litigant is a prisoner and has three strikes. § 1915(a)(1),(3) and (g). Sperow v. Melvin, 153 F.3d 780, 781 (7th Cir. 1998). Plaintiff's request for leave to proceed in forma pauperis on appeal will be denied, because I am certifying that her appeal is not taken in good faith.

In Lucien v. Roegner, 682 F.2d 625, 626 (7th Cir. 1982), the court of appeals instructed district courts to find bad faith in cases in which a plaintiff is appealing the same claims the court found to be without legal merit. Lee v. Clinton, 209 F.3d 1025, 1027 (7th

Cir. 2000). Plaintiff is trying to appeal the same claims that I dismissed in her case. Because there is no legally meritorious basis for plaintiff's appeal, I must certify that the appeal is not taken in good faith.

Because I am certifying plaintiff's appeal as not having been taken in good faith, she cannot proceed with her appeal without prepaying the \$505 filing fee unless the court of appeals gives her permission to do so. Under Fed. R. App. P. 24, plaintiff has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. With her motion, she must include an affidavit as described in the first paragraph of Fed. R. App. P. 24(a), with a statement of issues she intends to argue on appeal. Also, she must send along a copy of this order. Plaintiff should be aware that she must file these documents in addition to the notice of appeal she has filed previously.

If plaintiff does not file a motion requesting review of this order, the court of appeals might not address the denial of leave to proceed in forma pauperis on appeal. Instead, it may require plaintiff to pay the entire \$505 filing fee before it considers her appeal. If plaintiff does not pay the fee within the deadline set, it is possible that the court of appeals will dismiss the appeal.

ORDER

IT IS ORDERED that plaintiff Catherine Conrad's request for leave to proceed in forma pauperis on appeal, dkt. #25, is DENIED. I certify that her appeal is not taken in good faith. The clerk of court is directed to insure that plaintiff's obligation to pay the \$505 fee for filing her appeal is reflected in the court's financial records.

Entered this 19th day of March, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge